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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Kiyotaka OHARA

**Mail Stop: Office of Petitions
Madison West Bldg.**

Group Art Unit: 2625

Application No.: 10/669,877

Examiner: D. TRAN

Filed: September 25, 2003

Docket No.: 116529

For: IMAGE READING DEVICE FOR TRANSMITTING IMAGE DATA TO TERMINAL
DEVICE

PETITION FOR REFUND UNDER 37 C.F.R. §1.182

Sir:

In accordance with 37 C.F.R. §1.182, Applicant petitions the Director for a refund of the fees paid associated with filing a Notice of Appeal to the Board of Patent Appeals and Interferences (Notice) for the above-identified application on October 14, 2008 based on the following:

Applicant timely filed a Request for Reconsideration After Final Rejection (Response) on July 14, 2008 (copy of filing receipt attached) in response to a Final Rejection mailed April 14, 2008. The remarks of the Response summarized and asserted the arguments presented during a personal interview conducted on July 8, 2008. During the interview, Examiner Folayan, who at the time was assigned to the application, agreed that the rejections of record were overcome by the arguments presented during the interview and asserted in the Response.

Applicants representatives repeatedly contacted Examiner Folayan during the month of August, 2008 to determine if the Response had been placed on the Examiner's docket.

Each time, Examiner Folayan indicated that the Response had not yet been placed on his

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docket. After several additional inquiries as to the status of the Response, Examiner Folayan indicated that the Response was still not on his docket but he had contacted the LIE which informed him that an error which prevented the Response from being docketed was corrected and that the Response would soon appear on his docket. Examiner Folayan indicated that he would be able to act on the Response within a week.

After a brief conversation with Legal Instrument Examiner Earline Green on September 16, 2008, Ms. Green informed Applicant's representatives that an internal error on the part of the U.S. Patent and Trademark Office prevented the response from appearing on Examiner Folayan's docket but that the error would be corrected within one day.

Applicant's representatives repeatedly attempted to reach Examiner Folayan to determine if the error had been corrected and whether the Response was on his docket but were unable to reach the Examiner. After several additional attempts, Applicant's representatives discovered that the application had been transferred to Examiner Tran, as Examiner Folayan was no longer at the Patent Office.

During a brief telephone interview on October 14, 2008, Examiner Tran tentatively indicated that he would be unable to act on the Response, although it had been placed on his docket, by the six month un-extendible due date because he was unfamiliar with the application.

Based on MPEP §706.07(d), Applicant was concerned that Examiner Tran would be unable to act on the response after the six month date because the application would become abandoned. Therefore, Applicant filed a Notice of Appeal to the Board of Patent Appeals and Interferences with a three-month Petition for Extension of Time (copy of filing receipt attached) to ensure the application would not go abandoned and that Examiner Tran would be able to act on the application.

Based on the foregoing, the need to file the Notice of Appeal to the Board of Patent Appeals and Interferences and three-month Petition for Extension of Time was based solely on the extensive delay caused by the Patent Office. Accordingly, Applicant respectfully petitions the Director to refund the fees associated with filing Notice of Appeal to the Board of Patent Appeals and Interferences and three-month Petition for Extension of Time.

In accordance with 37 C.F.R. §1.182, attached is check no. 214153 for the petition fee set forth under 37 C.F.R. §1.17(f).

Should the Director believe that anything further would be desirable to act on the merits of this petition, the Director is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff
Registration No. 27,075

Randi B. Isaacs
Registration No. 56,046

JAO:KRG/jnm

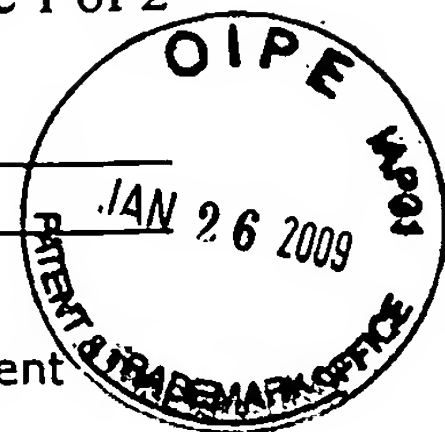
Attachments:

Copy of July 14, 2008 Electronic Filing Receipt
Copy of October 14, 2008 Date Stamped Filing Receipt

Date: January 26, 2009

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461
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**Acknowledgement Receipt**

The USPTO has received your submission at **18:02:10** Eastern Time on **14-JUL-2008**.

No fees have been paid for this submission. Please remember to pay any required fees on time to prevent abandonment of your application.

eFiled Application Information

EFS ID	3613585
Application Number	10669877
Confirmation Number	5157
Title	Image reading device for transmitting image data to terminal device
First Named Inventor	Kiyotaka Ohara
Customer Number or Correspondence Address	25944
Filed By	Joel S. Armstrong/lavonda gilbert
Attorney Docket Number	116529
Filing Date	25-SEP-2003
Receipt Date	14-JUL-2008
Application Type	Utility under 35 USC 111 (a)

Application Details

Submitted Files	Page Count	Document Description	File Size	Warnings
116529rfrafr071408.pdf	4	Applicant Arguments/Remarks Made in an Amendment	116599 bytes	◆ PASS

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this

Acknowledgement Receipt will establish the international filing date of the application.

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- *Send general questions about USPTO programs to the [USPTO Contact Center \(UCC\)](#).*
- *If you experience technical difficulties or problems with this application, please report them via e-mail to [Electronic Business Support](#) or call 1 800-786-9199.*

**PTO RECEIPT FOR FILING OF PAPERS****Delivery ▶ Mail Room****The following papers have been filed:**

Notice of Appeal to the Board of Patent Appeals and Interferences and Petition for
Extension of Time; check# 210958 (\$1,650)

Name of Applicant:	Kiyotaka OHARA
Serial No.:	10/669,877
Attorney File No.:	116529
Title:	Image Reading Device for Transmitting Image Data to Terminal Device
Sender's Initials:	JAO:KRG/jnm
Assignee:	BROTHER KOGYO KABUSHIKI KAISHA

PATENT OFFICE DATE STAMP

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AND RETURNED BY MESSENGER**